

MAY 24 2004

04 620

INMATE NAME: _____

CDC NO. _____

APPEAL ISSUE: RESTITUTION DEDUCTION

LOG NO. _____

A. Describe Problem (con't): . . . describes process and procedure for doing so as "If the restitution is owed to a person who has filed an application with the Victims of Crime Program, the Director shall transfer that amount to the * * * California Victim Compensation and Government Claims Board * * * for direct payment to the victim, or payment shall be made to the Restitution Fund to the extent that the Victim has received assistance pursuant to the program. No deductions shall be made on behalf of the victims who have not file an application with the Victim of Crime Program."

The Department of Corrections is therefore violating due process rights - secured and protected by the 14th Amendment - by taking restitution without the required application from the victim being processed to the Department of Corrections and placed in the affected Inmate C-File authorizing the deduction of restitution to commence. Without a signed application by a Victim, the taking of restitution is unlawful, and

The inmate population hereby poses the following question of law pertaining to Pen. Code § 1202.4 and § 2085.5 as it adversely affects the inmate population and is believed to violate the U.S., Constitution 5th and 14th Amendments in the following manner:

By imposing restitution and/or fines upon convicted felons the law rightly holds individuals accountable for their actions. However, Pen. Code § 1202.4 and § 2085.5 imposes fines and restitution on people that have not been convicted of the crime, by, allowing deduction from inmate trust account deposits sent by family or friends.

The 5th Amendment requires due process of law in criminal proceedings, and taking of money for fines and restitution from family or friends deprives them of due process imposing a fine and restitution they are not accountable for. The 14th Amendment provides protection from application of such laws and California Pen. Code §§ 1202.4 and 2085.5 appear to violate the U.S. Constitution.

C.D.C. does not have the legal authority to change legislatively-enacted law, however, it can alert the State government to valid questions of law.

H. Continued: being followed in any or all the groups cases. The reviewer's denial is therefore erroneous and contrary to state and federal law. Similarly, the reviewer erroneously concludes that family and friends are not being harmed by deducting restitution from the money they send (Please See Exhibit-A), but evidence shows that they feel like victims themselves at having to pay for the crimes charged of their loved one's, which thwarts the intent of the penal code as claimed.

In any event, CDC has the ability to allow family and friends to choose whether or not if they want to help pay fines and/or restitution, by, designating a separate P.O. Box Number for money to be directly deposited in the Inmate Canteen. The Canteen would then, upon completion of monthly draws, send the money directly to the Inmate Welfare Fund. This would actually reduce costs in paperwork between canteen and the trust office, and, reduce trust office staff positions which would save the state significantly in those salaries for which it is cash strapped already and deleting positions to reduce the debt of the state.

This appeal should have been and should be granted.

PERMANENT ATTACHMENT PAGE TO INMATE CDC-602 APPEAL FORM